

CITY OF DOTHAN PERSONNEL BOARD

APPEAL HEARING

of

MARY BETH BRACKIN

WEDNESDAY, JUNE 1, 2005

1:30 p.m.

Sakado Room

Second Floor

Dothan Civic Center

PERSONNEL BOARD:

Gary Griffin, Chairman

Mary Davis

Barbara Spann

CITY PERSONNEL:

Kai Davis

Tammy Clark

Len White, City Attorney

Judge Rose Gordon

Michelle Sellers

FOR THE APPELLANT:

Mr. Ishmael Jaffree, Attorney at Law

Mary Beth Brackin

John Brackin

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MARY BETH BRACKIN

having been first duly sworn, testified as follows,

to-wit:

EXAMINATION

BY MR. WHITE:

Q Would you state your name for the record?

A Mary Elizabeth Brackin.

Q Were you employed as a magistrate for the City
of Dothan?

A Yes.

Q How long were you so employed?

A My employment started May 1st of 1992 and
ended May 3rd of 2005.

Q Are you familiar with an investigation into
the disposition of a ticket for Bradley Phelps?

A In the disposition?

Q The investigation into what happened to a
ticket given to Bradley Phelps, not Stephen Phelps.

MR. JAFFREE: Let me object. That is too
broad a question. An investigation?
What type of investigation?

1 MR. WHITE: Any investigation.

2 MR. JAFFREE: Does she know about an
3 investigation?

4 A Only what Officer Etress has told me, that
5 there was a current investigation.

6 Q Who is Officer Etress?

7 A He is an investigator with CID.

8 Q And was there an investigation into a ticket
9 given to Stephen Phelps?

10 A Can you go to where I don't have to turn my
11 neck too hard? I am sorry. I have neck problems.

12 Q You don't have to look at me. That is fine.
13 Do you know whether or not there was an
14 investigation into a ticket given to Stephen Phelps?

15 A Whether he received a ticket?

16 Q Any investigation of a ticket given to Stephen
17 Phelps?

18 A Not other than what Officer Etress asked me
19 about that day. I think that is the first recollection
20 of it, was whenever he brought it to my attention.

21 Q You know what you're charged with today?

22 A Insubordination.

23 Q What else?

24 A By swearing to the transmittal.

25 Q Transmittal of what ticket?

1 A Of the Stephen Phelps' ticket.

2 Q Stephen Phelps?

3 A Right.

4 Q Now, was there an investigation into that
5 Stephen Phelps' transmittal?

6 A Other than what Officer Etress told me that
7 day.

8 Q Did you talk to anybody in the police
9 department about the Stephen Phelps' case?

10 A What do you mean?

11 Q Did you talk to anybody in the police
12 department about the Stephen Phelps' case?

13 A Other than Sergeant Gray.

14 Q Sergeant Gray talked to you about the Stephen
15 Phelps' case?

16 A Yes.

17 Q He was investigating the Stephen Phelps' case?

18 A Okay.

19 Q Did he?

20 A I assume. He questioned me about it.

21 Q He questioned you about the Stephen Phelps'
22 case?

23 A Yes.

24 Q Did he ask you whether you wrote "void" on the
25 transmittal?

1 A Yes.

2 Q What was your answer?

3 A I said, yes, I wrote the word "void."

4 Q And if you would, please, identify that
5 document.

6 A This is a transmittal.

7 Q And is that the transmittal that contains
8 Stephen Phelps' ticket?

9 A Yes.

10 Q And is that your signature on there that says
11 "void"?

12 A Yes.

13 Q That's your signature at the bottom of the
14 page that said you received it?

15 A Yes, I did.

16 Q Did you do that after it was sworn to?

17 A I don't recall.

18 Q You mentioned Officer Etness asking you about
19 the Bradley Phelps ticket; is that right?

20 A Uh-huh.

21 Q So there was an investigation by Officer
22 Etness on Bradley Phelps and Officer Gray on Stephen
23 Phelps. While that investigation was ongoing, was there
24 a meeting with the magistrates and the judge?

25 A There was a meeting that took place on that

1 Thursday that Mary got put on leave, but the meeting was
2 before I was questioned by the investigators.

3 Q Did you ever have a conversation with Mary
4 Turner after that meeting?

5 A Yes.

6 MR. WHITE: That's all. Your witness.

7 EXAMINATION

8 BY MR. JAFFREE:

9 Q To avoid calling you back a second time, let
10 me just ask you and expand the series of questions to
11 make this go quicker. When did you first start working
12 as a magistrate?

13 A May 1st of 1992.

14 Q Who was the appointing authority when you
15 first got the job?

16 A Gayle Schwarz. She was the court
17 administrator or the court clerk.

18 Q And in your first year as a magistrate, did
19 you have any problems?

20 A No.

21 Q Did they give you an annual evaluation?

22 A I believe I had a few, because when you are
23 new, you have so many before you are there a year.

24 Q So you had internal evaluations before the
25 year was up?

1 A Yes.

2 Q Were those evaluations then generally
3 positive?

4 A Yes, sir, to my knowledge.

5 Q What year was this, you said?

6 A 1992. So I don't know remember the exact
7 evaluations. I don't have copies of those.

8 Q After your first annual evaluation, did you
9 have anymore?

10 A Yes.

11 Q When did you leave the magistrates' office?

12 A August of 1995.

13 Q The evaluations that you had up to August of
14 1995, were they generally positive?

15 A To my knowledge, yes.

16 Q Did you ever get suspended for anything?

17 A No.

18 Q Did you enjoy working for the magistrates'
19 office?

20 A Yes, I did.

21 Q Did you need that income?

22 A Of course, I had just had a new baby.

23 Q Did your family count on that income?

24 A Yes.

25 Q Are you currently employed?

1 A No.

2 Q Are you familiar -- and I am not being linear,
3 because I want to cover something I intended to cover
4 first. Are you familiar with a letter that I wrote,
5 hopefully, to the attention of the Board, telling them
6 about the effects of unemployment?

7 A Yes.

8 Q You received a notice that you were going to
9 be terminated?

10 A Yes, sir.

11 Q How did that impact you when you first got it?
12 MR. WHITE: Object. It is irrelevant to these
13 charges.

14 MR. CHAIRMAN: She may answer.

15 Q How did that impact you?

16 A I was devastated. I had never been fired from
17 a job before.

18 Q Did you suffer any economic loss?

19 A Of course. I have lost about 45 percent of
20 our income monthly.

21 Q Is that a trivial thing?

22 A No.

23 Q Do social problems come with the loss of
24 income?

25 A Sure.

1 Q Family problems have developed?

2 A Yes.

3 Q Arguments within the family?

4 A Disagreements.

5 Q Disagreements?

6 A Yes, sir.

7 Q Does it affect your general well-being?

8 A Yes, sir.

9 Q Can you do things like you used to do, like
10 take vacations and buy things on the spur of the moment?

11 A No.

12 Q You have to watch every penny?

13 A Yes, sir.

14 Q You have gone from a two-income household to a
15 one-income household?

16 A Yes, sir.

17 Q Has that affected everything you have had to
18 pay for, every debt you have, since this occurred?

19 A Yes.

20 Q Do you think you have done anything to warrant
21 your termination from this job?

22 A No.

23 Q Do you intend to make this job a career?

24 A I had twelve more years until retirement.

25 Q So being terminated, terminated that as well?

1 A Yes, it did.

2 Q When you first got employed, did you realize
3 this was merit system employment?

4 A Yes.

5 Q Did you know that you should be not terminated
6 for arbitrary or trivial reasons?

7 A Yes.

8 Q Do you also understand that people can use
9 terms like "insubordination" to apply for anything no
10 matter how trivial?

11 A Yes.

12 Q Now, let me go back to your service with the
13 police department in August of '95 when you left the
14 magistrates' office.

15 A Yes, sir.

16 Q Why did you leave?

17 A Well, we were on-call quite a bit, because
18 there was only approximately four magistrates at the
19 time. We were on-call, and my husband is a fireman. So
20 he has shift work. And with me being on-call, I had a
21 child, a baby, so I would have to pretty much pack all
22 of us up and go stay with my in-laws in case I got
23 called out while my husband was working.

24 The money was the same. So at the time, I just
25 transferred over to the police department, but I still

1 kept up my certification and paid to go to the schools
2 to keep up with the current laws that were going on.

3 Q So as a necessity, you had to leave?

4 A Yes.

5 Q By on-call, you mean they could call you
6 anytime?

7 A Yes. And at that time, we were actually
8 getting called out for theft of property, charges of
9 which at the time were under the amount of \$25.00, which
10 was quite a few times.

11 Q How did you work out with the police?

12 A Very well.

13 Q Did you have any disciplinary problems?

14 A No, not to my knowledge.

15 Q Did Jerry consider you a good employee?

16 A Yes.

17 Q Did you have positive evaluations?

18 A Yes.

19 Q Will your file reflect those positive
20 evaluations?

21 A Yes, it will.

22 Q How long did you work for the police?

23 A From August of '95 until, I believe it was, in
24 April of 2001. April, I think, is when I left.

25 Q So from '92 until 2001, you had never had any

1 problems with your appointed authority?

2 A No, sir. Not to my knowledge, not that I can
3 recall.

4 Q Never got suspended?

5 A No, never suspended.

6 Q Were you on a list? How did you get the job
7 back? When you came back in 2001, how did you get the
8 job back as a magistrate?

9 A I believe I was Number 1 on the roster. I
10 believe there is an in-house and an outside roster.

11 Q A register?

12 A Yes.

13 Q That is supplied?

14 A Right. And you are categorized based on the
15 grading that, I believe, the personnel department does
16 based upon your experience and qualifications that meet
17 that job.

18 Q I see. And it is supposed to be competitive;
19 correct?

20 A Yes.

21 Q And it is supposed to be based on merit and
22 experience?

23 A I believe your evaluations come into play. I
24 believe that is right.

25 Q You mean if you previously had the job?

1 A Right.

2 Q But in general, this register that is kept,
3 whatever criteria is used, you are placed either first,
4 second or third?

5 A In numerical order, correct.

6 Q Is race a criteria? Do you get so many points
7 because of your race?

8 A I don't know.

9 Q But it could be?

10 A I don't know. It could be, but I don't know.

11 Q If you could, then it would be reflected by
12 your position? If race factored in, you get some points
13 because of your race, then you would be up higher in a
14 position because of those points?

15 MR. WHITE: Objection. She said she doesn't
16 know.

17 Q They had a register list; right?

18 A Right.

19 Q Do you know or have reason to know what
20 position Lavera had on that list?

21 A I know she was down the roster some.

22 Q Do you know if she was second place?

23 A No.

24 Q Third place?

25 A No.

1 Q Fourth place?

2 A No.

3 Q Fifth place?

4 A She could be. I don't know. I don't think
5 she was in the top three.

6 Q Whatever place she was, she wasn't near the
7 top?

8 A Not to my knowledge.

9 Q She got appointed?

10 A Yes.

11 Q She got appointed into her position?

12 A Yes.

13 Q Do you know who was responsible for appointing
14 her to her position?

15 A At the time, Judge Gordon was the department
16 head, and Donna Nicholson was the court administrator.

17 Q Do you understand the term "affirmative
18 action"?

19 A Somewhat.

20 Q Prior to Lavera getting that position, was the
21 magistrates' office sort of lily white?

22 A Yes.

23 Q So you weren't opposed to a black being bumped
24 up so they could have some diversity in the office?

25 A Well, I would hope it would be based upon

1 experience that they would be put in the office.

2 Q But bumping up could, in fact, be unlawful?

3 A Yes.

4 Q Because you may be putting somebody in a
5 higher position than a better qualified white person,
6 but it was with a good heart, but it still may be
7 unlawful; do you understand that?

8 A Yes.

9 Q Are you quite certain that Lavera was down
10 below some other people who didn't get offered the
11 position?

12 A I don't know if they were offered the position
13 or not.

14 Q Do you remember when they first decided to
15 make the position of judge of municipal court a
16 full-time position?

17 A Yes.

18 Q Do you remember the controversy that was
19 surrounding, I think, a Ms. Lane?

20 A Yes.

21 Q Do you know or have reason to believe that the
22 City at a very early time decided that that would be a
23 position designated for a black person?

24 A I believe it was a minority female.

25 Q They wanted a minority female. And, again,

1 there may be a lot of women hired by the City, if the
2 City had that as a policy, but even that, to exclude
3 white people, may be unlawful.

4 Now, Ms. Lane didn't get the position?

5 A No, she didn't.

6 Q Ms. Evans-Gordon did?

7 A Yes.

8 Q So the City had its first black mayor -- I am
9 sorry, not yet -- its first black City judge?

10 A Yes.

11 Q You had gone without any problems. Did you
12 start having problems associated with your job once you
13 came back to work?

14 A Yes.

15 Q And who was the judge at the time?

16 A Judge Gordon.

17 Q Can you identify some of the problems that you
18 had?

19 A Yes.

20 Q Can you tell us?

21 A In approximately 2001, I got notified on a day
22 that the following day I was to report to the police
23 chief's conference room to be internally investigated
24 for an administrative problem with a comment that was
25 allegedly made and that I was to cooperate with them

1 fully. And I was told by Ms. Sellers that if I did not
2 sign it and do that, I would be found guilty of
3 insubordination.

4 Q You said that there was a comment that you
5 allegedly made?

6 A Yes.

7 Q What date was this?

8 A Oh, gosh. I can't remember the exact date. I
9 want to say it happened in September, but I didn't know
10 that anything --

11 Q Of what year?

12 A 2001.

13 Q Was there an internal investigation as a
14 result of this comment?

15 A Yes.

16 Q Did someone from internal affairs come and
17 talk to you?

18 A Sergeant Keith Gray called me on the phone
19 and told me he needed to speak with me and could I come
20 over to their office the next day at three o'clock. And
21 I asked him, What for? He said, Has Judge Gordon not
22 talked with you? I said, No, sir. He said, I will get
23 back with you. The next thing I know, I get called in
24 -- I get that letter and get told to cooperate.

25 So I had no idea it was internally being

1 investigated until I got notified to report to them the
2 next day.

3 Q Is it a pleasant thing to be interrogated?

4 A No, it is not. They treated me like I was a
5 criminal.

6 Q The City police?

7 A Yes.

8 Q Had you been accused of a criminal offense?

9 A No.

10 Q Does it have a chilling effect to somehow be
11 investigated?

12 A Yes, it does.

13 Q Now, you were investigated for allegedly
14 making a comment?

15 A Yes.

16 Q Well, most certainly you told this person to
17 commit a crime?

18 A No.

19 Q What comment did you make or allegedly make?

20 A There was a white female who had been in court
21 that particular morning. She had come to the office
22 that was located on North Saint Andrews at the time. We
23 were in the Miracle Finance Building next to the police
24 department. There was a black bondsman with her at the
25 time. His name was Andrew Turner. They came into the

1 office. At the time, Mr. Turner, the bondsman, was on
2 the telephone. The defendant came up and was telling me
3 that she had just been in court and that she was not
4 satisfied with the treatment the public defender -- she
5 was not satisfied with the way the public defender
6 handled her case. She didn't feel like he was for her.
7 I advised her she needed to go back into the courtroom
8 and speak with the judge and ask the judge if there is a
9 way the case could be put on a separate docket, that
10 there were three public defenders, two others that could
11 represent her. That is all that was said.

12 Q Were you giving this citizen fair comment
13 about what their rights are?

14 A Yes.

15 Q Do you think that is a matter of public
16 concern?

17 A Sure.

18 Q Do you know what I mean by "public concern"?

19 A Yes.

20 Q Do you think you were doing anything to
21 violate anything?

22 A No.

23 Q And as a result of these comments, you were
24 interrogated by the police?

25 A She went over to the courtroom and said that I

1 had told her that the public defender, Mr. Shaun McGhee,
2 was not a good attorney and he didn't know what he was
3 doing. I had been in that job since 1992. I know that
4 is a statement that should not be made. I would not
5 make that statement.

6 Q Let's assume for the sake of this question
7 that you made that statement. Is that a criminal matter
8 to say a person doesn't know what they are doing?

9 A Not to my knowledge, no.

10 Q So early on, the judge used the police as an
11 enforcement into their investigation to try to get
12 information from employees?

13 A Yes.

14 Q Did anything happen as a result of this
15 internal investigation?

16 A I do not know. I kept asking. Several weeks,
17 I would see Sergeant Gray, and I said, well, do you know
18 what is going on or what has happened. He said, that
19 has been turned over to the Chief. That is all we do is
20 take statements. We turn over our information, and it
21 is up to the Chief to get up with the judge. I did not
22 hear anything.

23 Q Did this get written up in the evaluation?

24 A Yes, it did.

25 Q Are there consequences associated with having

1 things written in your evaluation?

2 A Yes, there is.

3 Q Are there economic consequences?

4 A Yes.

5 Q Are there consequences with respect to
6 promotions?

7 A Sure.

8 Q And transfers to jobs?

9 A Yes.

10 Q So an investigation was done about a comment
11 that you made that you felt was consistent with free
12 speech rights and it got put in your evaluation?

13 A Yes, it did.

14 Q You certainly didn't think that race had
15 anything to do with that?

16 A No.

17 Q Was Lavera and Eunice working there during
18 this time?

19 A Yes.

20 Q Did you have an opportunity to observe their
21 job performance?

22 A Yes.

23 Q Do you know whether or not they were making
24 mistakes with doing their job performance?

25 A Yes, they were.

1 Q How would you know? One witness said she
2 would have no way of knowing.

3 A Well, there were several times -- well, for
4 one thing, I did the daily deposits. There were times
5 when I didn't have their money and should have had.
6 There were memos done to that effect, that their money
7 would be balanced that day before they left work. When
8 I would come in the next day and do the deposit for the
9 City, I would have this money sitting out, and, of
10 course, I couldn't get up and leave it. If I didn't
11 balance, then I would have to go through and figure out
12 why the money did not balance for the preceding day.
13 Well, when I recounted the money, I thought, well, I am
14 off. So when I would go through to make sure, well, I
15 would find out that I wouldn't have some of their money.

16 On more than one occasion it was Lavera and
17 Eunice.

18 Q Would you say it happened frequently?

19 A It happened a couple of times, yes.

20 Q Do you know if this continued throughout your
21 tenure up until the time you got terminated?

22 A Yes.

23 Q Do you have any direct knowledge whether or
24 not Lavera ever made mistakes that caused people to get
25 falsely arrested?

1 A Yes.

2 Q If people get falsely arrested, is that
3 considered a serious matter?

4 A Yes, it is.

5 Q Do you know if Lavera was ever disciplined?

6 A Not to my knowledge, she was not.

7 Q I guess her personnel file would reflect this
8 discipline?

9 A Yes.

10 Q Do you know if Eunice ever made mistakes that
11 caused people to get falsely arrested?

12 A Yes, she did.

13 Q Do you know if she ever got any discipline?

14 A No, she did not. Not to my knowledge.

15 Q Now, how is bond money supposed to be treated?

16 A Cash bond money?

17 Q Cash bond money.

18 A If it is between the hours of eight to five,
19 Monday through Friday, the sureties should come into the
20 magistrates' office and the monies will be posted and
21 ran through the computer. A receipt will be given to
22 the surety, and they must sign the bond and also a cash
23 bond sheet authorizing whether the court may use the
24 money if they are found guilty for fines and costs or,
25 no, they cannot use it and all of the money is to be

1 refunded to the surety.

2 Q Was that process ever reduced to writing?

3 A Was it ever reduced?

4 Q Yes. Was it ever part of a written memo?

5 A As to the nature?

6 Q As to what you are supposed to be doing?

7 A Yes, sir.

8 Q Do you have any direct knowledge whether or
9 not Lavera followed that policy all the time?

10 A Not to my knowledge for her, no.

11 Q What about Eunice?

12 A I know a particular incident where this person
13 was falsely arrested and the monies was given back to
14 the defendant.

15 Q As cash?

16 A Yes.

17 Q Do you know if the defendant is the one who
18 posted the bond?

19 A I don't believe he was, no.

20 Q Is giving cash money to the defendant part of
21 the procedure?

22 A No.

23 Q Is there a way to do an audit trail if you
24 refund a defendant in cash?

25 A No.

1 Q Do you know if Eunice was ever disciplined
2 because of this?

3 A No, not to my knowledge.

4 Q Was there anything that happened in addition
5 to what you just said that made you feel that maybe
6 Eunice and Lavera were given preferential treatment?

7 A Yes.

8 Q Think back, and you can put the details in if
9 necessary, but tell me the best you can all of the ways
10 you feel they have been given preferential treatment and
11 that it should have been obvious to almost anyone.

12 A Well, I mean, the most obvious were the
13 mistakes that were made, and I had brought a few of
14 those to the judge's attention. I was told, well,
15 everybody makes mistakes.

16 Q Do you know whether or not these mistakes were
17 reflected in their evaluations?

18 A I don't know. I don't see the evaluations, so
19 I don't know.

20 Q These are the types of things that would
21 generally be reflected in their evaluations?

22 A It should, yes.

23 Q Is it a part of your job performance?

24 A Yes.

25 Q So you felt the judge was taking up for them,

1 saying, everybody makes mistakes?

2 A Yes.

3 Q Go ahead.

4 A There were times when I would see the judge
5 and them leaving. They would go to lunch together.

6 There were times when --

7 Q Let me stop you. I am assuming the judge went
8 to lunch with you as well?

9 A We had lunch with her at Chili's, the whole
10 office did, for her birthday. I believe it was last
11 year or the year before. And then we had lunch this
12 year at the office in the courtroom.

13 Q Maybe the judge and them are just close
14 friends; there is nothing wrong with that, is there?

15 A It didn't look right.

16 Q Do you think it is an appearance problem, the
17 judge going to lunch with two black magistrates and not
18 the others?

19 A I would assume that, yes.

20 Q Maybe they felt comfortable together?

21 A They might have.

22 Q Go ahead.

23 A When we moved from the office -- well, before
24 we moved from the office, there was an incident where we
25 did not have a court administrator, and the morale in

1 our office was very low. We had people talk about they
2 were going to quit. There were comments even made,
3 well, why don't they get punished with all the mistakes
4 that happen, and they were referring to Lavera and
5 Eunice. On this particular day, I believe it was a
6 Sunday, I had went by the judge's home, because we just
7 live right around the street from one another. And I
8 had knocked on the door. I was going to speak with her
9 and ask her if she could maybe have a meeting with us so
10 we could air out some issues and boost the morale a
11 little bit and just try to fix things and mend them to
12 where we could go on and the office would run smooth.

13 When I reached her home, I knocked on the door or
14 rang the doorbell. I don't know whichever one. I
15 believe it was her husband that came to the door, but he
16 did not open it. He asked who it was. I stated my
17 name, and I asked to speak with the judge. He said,
18 just a moment.

19 I waited what seemed like a few minutes, but was
20 probably only maybe a couple of minutes. He came back
21 and still did not open up the door. He said, well, she
22 is in the shower.

23 I said, Okay. I said, Can she call me back? And
24 he said, yes. What is your phone number? I gave him my
25 phone number, and I didn't hear from her.

1 The next day, I didn't say anything. She called me
2 and apologized. She said that her brother was there and
3 she was having problems with her brother. I said, well,
4 that is okay. But I just felt like it was odd that he
5 at least couldn't open up the door.

6 But that day, we had a meeting. I believe Kai
7 Davis was present at this particular meeting. The judge
8 was pretty much, we are going to air everything out and
9 lay everything out on the table. Mary Turner was
10 standing in between myself and Lavera McLain. There
11 were comments made about several different things. I
12 really don't know all that was said.

13 During the discussion, Lavera had raised her voice
14 and talked to me very rude in a tone, and I verbally
15 complained to the judge and nothing was done then.

16 Q Hold on. One employee was talking rudely to
17 another employee?

18 A To me.

19 Q And you brought this to the attention of the
20 judge?

21 A The judge was there.

22 Q You brought it to the attention of the judge?

23 A I told the judge I did not appreciate the tone
24 that she talked to me.

25 Q Do you know whether or not the judge did a

1 memo and placed it in her file?

2 A I don't know.

3 Q So there could be one in the files?

4 A Could be.

5 Q All right. Let me pause you for a second. I
6 asked you before about whether or not Lavera had been
7 bumped up ahead of other people who were higher on the
8 roster, but just happened to be white. Do you know if
9 Eunice got bumped up ahead of people, when she got her
10 job, who were white and happened to be higher on the
11 roster?

12 A I know she was down lower. I don't know if
13 the other people above them refused the job. I don't
14 know that.

15 Q So they may have refused the job?

16 A They may have.

17 Q You wouldn't have any knowledge of that?

18 A No.

19 Q I am sorry I cut you off on that. Go ahead.

20 A There was the time when we had moved from the
21 office on North Saint Andrews to the current location of
22 the magistrates' office. Lavera was in charge of the
23 move.

24 Q Let me stop you. Who put Lavera in charge of
25 the move?

1 A I assume the judge did. She was the
2 department head. We did not have a court administrator
3 at the time.

4 Q Was she in charge because of her seniority?

5 A No. She didn't have seniority.

6 Q But somehow she became in charge of the move?

7 A Yes.

8 Q She had almost equal seniority as you did?

9 A They said we were hired on the same day, but I
10 actually started before she did.

11 Q But if you count your prior experience, you
12 had more experience?

13 A Right.

14 Q So she was in charge of the move. So what is
15 wrong with that?

16 A To me, the way the offices were distributed.

17 Q Well, it was going to be based on seniority?

18 A No.

19 Q Well, it must have been distributed based on
20 seniority, that is only fair?

21 A It would have been fair, but that is not the
22 way they were done.

23 Q Well, then they were based on the job
24 requirements; correct? I mean, different people had
25 different job functions so they had to have an office to

1 reflect that?

2 A Yes, we all had different job requirements,
3 but we all did not get an office, no.

4 Q Who got the best offices?

5 A Eunice and Lavera and Sarah got offices on one
6 side of the office with windows. Valerie and Michelle
7 Bryan got offices with windows. Then, in the end, Ann
8 Baxter actually got the biggest office. But I had
9 mentioned to Lavera, I said, well, Mary and I will be
10 glad to share that office, because Mary was not assigned
11 an office.

12 Q Let me stop you.

13 The fact that Lavera and Eunice got an office with
14 a window, that didn't make the office better than
15 anybody else's, did it?

16 A Well, an office with a window is nice.

17 Q But you said other people got offices with a
18 window as well?

19 A Yes.

20 Q So there was nothing special about their
21 offices?

22 A Well, it was a good size.

23 Q So they had large offices with a window?

24 A I believe Lavera's was the largest. I could
25 be wrong. I believe hers was the largest with the

1 window. Ann's was actually the biggest, but in the
2 beginning, Ann was not given that office until toward
3 the end of the move.

4 Q But it wasn't based on seniority?

5 A No.

6 Q And Lavera just took charge?

7 A Yes.

8 Q Did she indicate who gave her the authority to
9 take charge?

10 A She did not tell me, but I found out later it
11 was Judge Gordon.

12 Q Did the person with the most seniority,
13 Ms. Turner, did she get a large office?

14 A She didn't get an office at all.

15 Q The one with the most seniority didn't get an
16 office at all?

17 A No.

18 Q What color was she?

19 A White.

20 Q Well, there was a reason she didn't get an
21 office?

22 A I don't know why, if there was.

23 Q Okay. Continue.

24 A With what? I am sorry.

25 Q Any other ways you think that somehow blacks

1 were treated better than whites in the magistrates'
2 office?

3 A Well, I know there were several things, as far
4 as we had problems with, when you are on-call, when a
5 magistrate is on-call, there were memos to the effect
6 that they had the authority, that you had to go through
7 the magistrate on-call if a cash bond was issued for a
8 defendant and they got arrested and a bonding company or
9 the defendant wanted it changed from cash to regular,
10 they should go through the magistrate on-call. There
11 were memos to that effect. There were several times
12 where Ms. McLain would change bonds from cash to
13 regular, and she would not be on-call.

14 Now, to my knowledge, I don't know if she was
15 disciplined or not.

16 I found several clerical errors even after they
17 were doing their job and trained to do that job and
18 trained on the new system. There were still errors that
19 were being made. I forwarded them to Nancy after Nancy
20 Martin came as court administrator.

21 I also fixed a lot of errors and, yes, everybody
22 makes mistakes, but they made a lot. I also fixed some
23 of them. But it got to the point to where it was taking
24 some of my time to do that, and if they are not aware of
25 their errors, they evidently think that is the proper

1 procedure of doing it.

2 Q Were you aware when Ms. Martin got hired that
3 you were targeted as a person that she needed to keep an
4 eye on?

5 A I found out later, but not at the time she was
6 hired.

7 Q Were you aware that Ms. Turner was targeted as
8 a person she needed to keep an eye on?

9 A Yes, later.

10 Q Do you know there was another white employee
11 that was targeted as a person she needed to keep an eye
12 on?

13 A Later, yes.

14 Q Do you know Kevin Sorrels?

15 A Yes, I do.

16 Q What color is he?

17 A White.

18 Q Did he get terminated?

19 A Yes, he did.

20 Q Who was responsible for that?

21 A I don't know. I assume Judge Gordon. She was
22 the department head at the?

23 Q Donna Nicholson, did you know her?

24 A She was white.

25 Q What happened to her?

1 A She got terminated.

2 Q Do you know who was responsible for that?

3 A Judge Gordon.

4 Q Nancy Martin, what color was she?

5 A White.

6 Q What happened to her?

7 A She got terminated.

8 Q Who was responsible for that?

9 A Judge Gordon.

10 Q Patty Kindberg, what color?

11 A White.

12 Q What happened to her?

13 A I don't know. I was not an employee at the
14 time.

15 Q What about Allison Davis?

16 A She was fired?

17 Q Do you know who was responsible for that?

18 A Judge Gordon. She was the department head. I
19 just assumed she was responsible.

20 Q Okay. And you have been terminated by Judge
21 Gordon?

22 A Yes.

23 Q And Ms. Turner has been terminated by Judge
24 Gordon?

25 A Yes.

1 Q Are you aware of any disciplinary action that
2 has ever been taken against any black employee there?

3 A No, not to my knowledge.

4 Q So if I tell you that seven white employees
5 were terminated by Judge Gordon, you wouldn't be in a
6 position to dispute that?

7 A No.

8 Q Do you know anybody who has resigned as a
9 result of Judge Gordon?

10 A Yes.

11 Q Who has resigned?

12 A Kim Phillips and Cheryl Moray.

13 Q Anyone else?

14 A I am trying to think.

15 Q Any idea about Debbie Irby?

16 A Debbie resigned about the same time that Donna
17 got terminated.

18 Q So, so far, that is ten people that under
19 Judge Gordon's tenure were either fired or resigned?

20 A Right.

21 Q And all of them are white?

22 A Yes.

23 Q Do those numbers trouble you?

24 A Yes, they do.

25 Q Did something happen to cause you to get

1 suspended for ten days?

2 A Yes, it did.

3 Q Can you tell us about that?

4 A The alleged incident occurred -- we were still
5 in the old office, which is the Miracle Finance
6 Building. So I am not sure if it was late December of
7 2003, or if it was early January of 2004. I was working
8 downstairs at the front window. A gentleman came in, a
9 defendant, and asked to speak with me in particular. I
10 didn't know him from Adam. I told him that he was
11 speaking with Mary Beth. I told him that was myself.
12 He said, Well, I need to go about getting my tow money
13 and bond money back. I said, for what? He said, well,
14 I was falsely arrested. I looked him up in the
15 computer. And I told him, instructed him, that he
16 needed to go to the City Clerk's office and advise them
17 that he was falsely arrested and that he needed to file
18 a claim. That is all I did.

19 And then Lavera McLain at the time was working
20 downstairs.

21 Q Somebody said they were falsely arrested and
22 you told him where to go and that is all you did?

23 A Yes.

24 Q You are under oath?

25 A Yes.

1 Q You got suspended as a result of that?

2 A Yes.

3 Q Did you get investigated as a result of that?

4 A Yes, I did.

5 Q Was there an internal investigation?

6 A Yes, there was.

7 Q Police officers called you?

8 A I got another letter to report over there to
9 internal investigation.

10 Q Because you allegedly told somebody where to
11 go because of a false arrest?

12 A Yes. They said I violated a memo.

13 Q Is that a criminal matter?

14 A No.

15 Q Do you know why the police officers do all of
16 these internal investigations of staff for noncriminal
17 matters?

18 A I didn't know they did all of this. If it is
19 City policy, I am not aware of it.

20 Q I could understand a relationship between the
21 City police and a judge because they work together very
22 closely on the criminal docket and the traffic docket,
23 but why are they used to interrogate internal staff of
24 noncriminal matters?

25 A I don't know. I would think that Judge

1 Gordon, as the department head, would be able to.

2 Q Did you tell these police officers anything
3 different than what you just told me and told the Board,
4 when they investigated this?

5 A Which time?

6 Q You just told them what happened, that he had
7 been falsely arrested. Did you tell the police officers
8 anything different?

9 A I am not sure. That was back in 2004. I am
10 not sure of the whole detail to that.

11 Q When did this incident happen? Was it in
12 2003?

13 A I am not for sure. I do know it was right
14 before we moved into the current location. So I am not
15 sure if it was right at the end of 2003 or the very
16 beginning of 2004, but we did not have a court
17 administrator at the time.

18 Q So there was a big gap between you talking to
19 this person and --

20 A I didn't get investigated until April of 2004.

21 Q And as a result of this, you got suspended?

22 A I got suspended for ten days without pay and I
23 got put on probation for two years.

24 Q Do you think you did anything worth getting
25 suspended for?

1 A No.

2 Q Are you not permitted to tell a citizen what
3 their rights are?

4 A I thought I could advise them and instruct
5 them on how to go about doing something.

6 Q Should they have a right to try to get their
7 bond money back if they are falsely arrested?

8 A Sure.

9 Q Who do they go to? Do they have to hire an
10 attorney for that?

11 A I don't know. We just have to send them, I
12 believe, to the City Clerk's office.

13 Q You know you should have appealed that to the
14 Board, shouldn't you?

15 MR. WHITE: Objection. It is a little late
16 for him to be giving legal advice on a
17 charge he didn't even --

18 Q Did you appeal that to the Board?

19 A No, I did not.

20 Q So you just took it?

21 A Yes.

22 Q And did you try to be very careful for the
23 next two years?

24 A Yes, I did. I would like to say, though, the
25 day I came back from my suspension, about, I think it

1 was midmorning of that day, I was called and Nancy
2 Martin, our court administrator at the time, we were
3 both called over to Judge Gordon's office. I thought,
4 what now, because that has just been the progression.
5 It just seems like it is always something picky or
6 piddley.

7 And she said she just wanted to make sure I still
8 wanted to be employed. I said, what are you talking
9 about. She said, now, if you want to quit, you just
10 let me know now. I said, I am not quitting. I love my
11 job. And I told her, excuse my language, I was damn
12 good at it. And I said, I am not quitting. She said,
13 You are sure? You know, if you want to quit, we will
14 just take care of it right now. But Nancy Martin was in
15 on that. I felt like she actually wanted me to quit.

16 Q Knowing what you knew about Lavera and Eunice
17 and nothing happened, do you feel that you have been
18 treated unfairly?

19 A Yes. Sure.

20 Q Did you think there was a double standard?

21 A Yes. I also cited, whenever I was in my
22 determination for the April 2004, I cited -- I have got
23 it written down. I cited a rule out of the personnel
24 rules that talked about practice. I think it is Section
25 3-10.

1 Q You cited that?

2 A I cited that section that talked about
3 practice as far as -- The way I read it is, if there are
4 certain rules and policies and procedures that you have
5 to go by, every City employee should have to follow
6 those. If you have got some that are not disciplined
7 for things, it would be the assumption to other
8 employees, well, if they can do it and not get written
9 up, then we shouldn't either.

10 Q Would it be difficult to establish a
11 comparatory if somebody is doing something and not
12 getting written up and somebody else does something and
13 gets written up? It is not like somehow they got
14 written up and the second time this didn't happen. They
15 are not getting written up in the first place. It is
16 difficult to look at a personnel file and establish a
17 comparative, isn't it?

18 A Yes.

19 Q But it doesn't mean that somehow race is not a
20 factor in the decision-making process, does it?

21 A No.

22 Q So you were trying to be careful. So what
23 happened with the incident involving the judge's
24 admonition not to talk to a certain person?

25 A I want to go back. After I came back from my

1 suspension -- I believe it happened after, but it might
2 have been before. I'm not sure. I had put in a lot of
3 overtime trying to get the new court system going, and I
4 had worked a lot on that. I was working the front
5 window. I had paged a police officer that he needed to
6 be in the courtroom with certain documents ASAP, per the
7 judge. That afternoon, I believe it was, that officer
8 came into our office, and yes, I raised my voice. But I
9 advised he should not be here; he should be in the
10 courtroom.

11 Well, when we he got over there, he made the
12 comment about me raising my voice. Well, Ms. Sellers,
13 said, well, you need to fill this complaint out. That
14 is what he told me.

15 Q So he was advised to fill a complaint out on
16 you?

17 A Yes.

18 Q This was shortly after you got back?

19 A I can't remember if it was after I got back or
20 before I left.

21 Q So you felt that maybe the judge was out to
22 get you?

23 A Yes.

24 Q Is that what you are trying to tell the Board?

25 A Yes. And I actually spoke -- I asked Nancy, I

1 said, do you mind if I page that officer to apologize,
2 because I didn't know that I had done anything. And I
3 paged him after hours. I was at home. I paged him, and
4 he said, Mary Beth, what are you talking about? He
5 didn't even remember. I told him what happened. He
6 said, if I had known that was going to get you in
7 trouble, I wouldn't have filled that out. But Michelle
8 Sellers handed it to me and said, if you want us to do
9 anything, you have to fill this out.

10 Q So you have been very careful?

11 A Yes.

12 Q The judge made the statement that she had
13 about speaking to a certain employee --

14 A Yes, she did.

15 Q -- because of a criminal investigation --

16 A No. She said Mary has been put on
17 administrative leave. She said she didn't know what it
18 was about, but that it had something to do with a
19 ticket. That is what she told us. And we were not to
20 have any contact with her.

21 Q Did you know what it was about?

22 A No. I knew from what I read on the computer
23 on one of Ricky Stokes' websites.

24 Q So you did read that?

25 A Yes.

1 Q Had you been funneling information to Ricky
2 Stokes?

3 A No. We didn't even know who the internal
4 investigator was until we read that. That told us who
5 it was. We didn't even know.

6 Q When the judge made that statement, did you
7 tell the judge, I understand that includes at home and
8 at church and everywhere else?

9 A Actually, when the statement was made, her and
10 Michelle Sellers both looked at me when they said it. I
11 asked her why they were both looking at me when
12 everybody else was in the room. She said, I know that
13 y'all are friends, and I made the comment that everybody
14 in there was friends with Mary.

15 Q Did you immediately get on the phone with
16 Mary?

17 A Not immediately, no. But during this meeting,
18 I was advised by Judge Gordon that I would be
19 responsible for doing her work while she was off.

20 Q What work was that?

21 A Issuing alias warrants for people who failed
22 to appear in court.

23 Q And did you have a need for some critical
24 information?

25 A Yes, I did.

1 Q What information was that?

2 A There is a letter that she does for youthful
3 offenders or for juveniles. We try not to issue
4 warrants on those, because if they are under-age, we try
5 to do what we call a "show cause letter" to set up a
6 show cause hearing for them to appear in court rather
7 than issue a warrant. That particular letter was on
8 Ms. Turner's desktop, on her PC, and I didn't have
9 access to that. And we were told that we could not go
10 in Ms. Turner's office.

11 So when the meeting was over, I asked Ms. Sellers,
12 I said is there a way maybe we can go through IT to get
13 them to retrieve that and put it on my desktop. She
14 said, Oh, no, we can't go in there. I said, I am not
15 talking about going in there. I am talking about
16 letting the computer department retrieve that letter and
17 put it on mine so I can do that. She said, No, you will
18 just have to find that letter in a case to use. I said,
19 Michelle, there is no way I can do that. You would have
20 to know exactly what case would have that document
21 attached to it. And that is like searching for a needle
22 in a haystack.

23 I advised her, also, that I did not have the time
24 to look for a case on there. She then walked back up to
25 the front. I don't know what she did.

1 Q Let me stop you. Given some of Ms. Turner's
2 duties, as well as your own, did that put a burden on
3 you?

4 A Yes. In fact, in that meeting, I told Sarah
5 Fowler, I helped her with the prisoners every week, I
6 told Sarah, I said, Sarah, there is no way I can help
7 you with the prisoners anymore. She said, Well, that is
8 okay. I said, no, you need help. And the judge advised
9 her to ask somebody to help her.

10 Q So the letter that would help you process the
11 stuff that you had to do by taking over her job would help
12 make it easier in light of how hard your burden was?

13 A To do that letter.

14 Q Did anyone else in the office know how to do
15 it or where it was or anything?

16 A The only way -- well, Mary had it on her
17 desktop. But as far as anybody else wanting -- When
18 Michelle came back into my office, she advised me that
19 some ladies graciously said they would find a case with
20 that letter. I knew that was just about impossible,
21 unless you knew for certain which case or defendant had
22 that letter attached to the case.

23 Q Did you contact Ms. Turner?

24 A A couple of hours later, I called Mary and I
25 asked her specifically, do you know where that format --

1 because I actually pulled up Microsoft Word and I looked
2 in there to see if I could find this particular format
3 to do this letter. She said, no, Betty King did that
4 back when she was court administrator.

5 Q Let me stop you. Did you feel at the time
6 that you were violating the policy that was stated?

7 A Not to ask her a business question.

8 Q Did you think you were being insubordinate?

9 A No.

10 Q Did you want to do something to get yourself
11 terminated?

12 A No, I would not.

13 Q So it was a business-related question that you
14 asked her?

15 A Right.

16 Q So you meant to communicate with her for a
17 business-related question?

18 A Yes. Yes. And that was the extent of the
19 conversation.

20 Q If you hadn't told the police officer about
21 this, they wouldn't have known about this, would they?

22 A That's right.

23 Q So you said, I did make one contact for a
24 business-related thing?

25 A Keith Gray asked me specifically, have you had

1 any contact with Mary Turner.

2 Q And you said yes?

3 A I said, yes.

4 Q You could have lied?

5 A Sure, I could have.

6 Q But you didn't?

7 A But I didn't.

8 Q Did you think that somehow this little minimal
9 contact would warrant you being terminated?

10 A No.

11 Q Do you feel that insubordination is a word
12 that is so broad and shouldn't there be intent
13 associated with that insubordination?

14 A I believe so, yes.

15 Q Intent to willfully defy someone?

16 A Yes.

17 Q Now, I guess when they decided to terminate
18 you for that, there was some investigation going on
19 about this other ticket; correct?

20 A Yes.

21 Q Now, you don't dispute that you put "void" on
22 that ticket, do you?

23 A No, I don't.

24 Q Now, do you remember? This was several years
25 ago?

1 A Right.

2 Q After several years, would that ticket,
3 whatever you put on the transmittal, have any meaning to
4 you or anything that would cause you to remember that?
5 Did it have any special anything?

6 A No. I told Officer Etress at the time that I
7 couldn't remember what happened two and a half years
8 ago. I swear to a lot of tickets and complaints. I
9 don't remember specifically what happened to that.

10 Q If the officer said that he gave the okay for
11 the ticket to be retrieved, that could be a basis for
12 triggering that void?

13 A Yes.

14 Q Did you intend to fix somebody's ticket at the
15 time you did that?

16 A No.

17 Q Did you think anything of it at the time?

18 A No.

19 Q This was several years earlier?

20 A Right.

21 Q And it somehow is just getting discovered?

22 A Right.

23 Q Were you and Ms. Turner involved in deciding
24 to fix tickets?

25 A No.

1 Q You are under oath.

2 A I understand. I would not do that.

3 Q Literally, you don't remember all of the
4 circumstances surrounding that ticket, do you?

5 A No, I do not.

6 Q Do you know if you ever saw the ticket itself?

7 A Gosh, no. I don't recall. My signature was
8 not on that ticket, so I didn't even have it to sign.

9 Q And, yet, if the ticket was recalled by the
10 police, the system should indicate that it is void;
11 correct?

12 A Voided tickets are not keyed in the system.

13 Q So it shouldn't be in the system?

14 A No.

15 Q And I guess it wasn't in the system?

16 A No, it was not.

17 Q So the void only reflects the reality, that
18 the ticket was no longer in the system?

19 A Right.

20 Q So there is no lying with the void, it just
21 reflects reality?

22 A Right.

23 Q And you weren't part of the process to bring
24 that ticket out of the system?

25 A No.

1 Q If anything, you reflected the reality?

2 A Right.

3 Q Did you think at the time you did that that
4 two and a half years later, you would be getting into
5 trouble for that?

6 A No.

7 Q Have you been fixing tickets for anybody?

8 A No.

9 Q Did you know the police officers have the
10 discretion of giving tickets or not?

11 A Yes, they do.

12 Q Unfettered discretion?

13 A Yes, they do.

14 Q Based on friendship?

15 A Yes.

16 Q How they feel that morning?

17 A Yes.

18 Q It is not fair that people who don't get their
19 tickets fixed by the police officer's discretion has to
20 pay?

21 A Right.

22 Q Others don't?

23 A Right.

24 Q Police officers, perhaps, shouldn't have that
25 discretion; right?

1 A Right.

2 Q But they do?

3 A Yes.

4 Q And judge's are allowed discretion to, aren't
5 they?

6 A Yes, they are.

7 Q They can treat similarly situation criminal
8 defendants differently?

9 A Yes.

10 Q For all sorts of reasons?

11 A Yes.

12 Q And it happens, doesn't it?

13 A Yes.

14 Q Two people could appear before her, same
15 charge, one could go to jail, the other one doesn't?

16 A That's right.

17 Q A lot of discretion; there is a lot of
18 unfairness in the world, but it happens?

19 A Correct.

20 Q Do you think you did anything to warrant you
21 losing your job and going through the pain that you have
22 gone through?

23 A No. In fact, I felt like if I knew -- I felt
24 like they knew that I was busy and had a lot of work
25 anyway. And with the addition of Mary's work, I felt

1 they were either maybe trying to see if could do the
2 work and maybe catch me on not doing it, but I kept it
3 caught up. I knew I needed all means to be able to do
4 the job.

5 Q As you sit there in the hot seat, can you
6 think of when you became a bad employee?

7 A I didn't start having problems until I went to
8 work for Judge Gordon.

9 Q Did you consider yourself a bad employee?

10 A No.

11 Q Can you think of anything you have done to
12 warrant you losing your job?

13 A No.

14 Q Do you want this Board when they look at this
15 case to consider that?

16 A Yes, I do.

17 Q You don't have a vendetta against the judge,
18 do you?

19 A No, I don't.

20 Q You don't want her to lose her job, do you?

21 A No.

22 Q You are not advocating that?

23 A No.

24 Q You want some fairness?

25 A Exactly.

1 MR. JAFFREE: I have nothing further of this
2 witness.

3 EXAMINATION

4 FURTHER BY MR. WHITE:

5 Q Ms. Brackin, is it a fair assessment of all
6 your testimony up to this point, that the decision to
7 terminate you didn't have anything to do with what you
8 did, it was motivated by racial discrimination by Judge
9 Gordon?

10 A Rephrase that.

11 Q Are you saying that this had to do with your
12 race rather than your conduct?

13 A I am not disputing that I did not call her. I
14 am just saying that for the reason why I called her, I
15 don't feel like should --

16 Q Let me ask you one more time. What I am
17 asking you is: Do you believe the decision to
18 discipline you was motivated out of race rather than
19 what you did?

20 A Out of race, no.

21 Q Do you think it was out of anything other than
22 the fact that you disobeyed deliberately?

23 A I didn't deliberately do it. I did it to the
24 fact that I needed help to be able to do that job.

25 Q You accidentally did it?

1 A No. I knew that she was the only one that did
2 that particular job and had that letter.

3 Q So you deliberately called her?

4 A Yes. To find out where the letter was so that
5 I could do it.

6 Q And are you saying that Judge Gordon made an
7 exception to you and everybody else in that room for
8 when you saw fit to follow her instructions and when you
9 didn't?

10 A No.

11 Q Did she tell you when you thought it was okay,
12 go ahead? Did she say that?

13 A When she did what now?

14 Q When she told you not to have contact with
15 Mary Turner, did she say, except when you think you need
16 to?

17 A No.

18 Q Did you go ask her if you could?

19 A No.

20 Q Why not?

21 A I didn't think there would be any harm in
22 asking a business question.

23 Q She told you not to and you had all of this
24 discussion with all of these other people about it, but
25 you didn't go to her?

1 A With all the other people? What do you mean?

2 Q About what you needed and where it was and
3 Michelle and how impossible it was to go look through
4 files?

5 A Right.

6 Q But you didn't go ask the judge, Judge, can I
7 go call her because it is impossible and nobody else can
8 help you? Did you ask her?

9 A No, I didn't.

10 Q You did not?

11 A No.

12 Q Isn't it true or are you aware that Mary
13 Turner disputes your testimony as far as how many times
14 you talked to her?

15 A I have seen Mary at Lafayette Street Church,
16 yes.

17 Q And do you know she says it was more than one
18 time that you called her?

19 A If it was, it was after hours.

20 Q After hours you talked to her. Tell us about
21 the other times you have called Mary Turner.

22 A What do you mean?

23 Q I mean, you talked about one time?

24 A I talk to her, yes.

25 Q Tell us about the other times that you talked

1 to Mary Turner that you didn't answer before?

2 A What are you talking about?

3 Q Tell us any other time you talked to Mary
4 Turner that you didn't tell us about.

5 A I don't know the result or recall the
6 conversation.

7 Q Don't recall?

8 A No.

9 Q Now, you have also said, when you were talking
10 about all of this racial preference, I think you said
11 Mr. Jaffree testified, I believe that there were ten
12 white employees that left employment since Judge Gordon
13 has been there; is that right?

14 A I assume. I don't know for sure, because some
15 people, I was not employed at the time.

16 Q So that was not your testimony; that was
17 Mr. Jaffree's testimony?

18 A I believe I had said I did not know of some of
19 it because I was not there.

20 Q How many --

21 A I just assumed, because Judge Gordon was the
22 department head.

23 Q How many white employees have left employment
24 since Judge Gordon came?

25 A That just quit?

1 Q That quit, got fired, or whatever? Do you
2 know?

3 A Approximately nine to ten, that I can think of
4 off the top of my head.

5 Q Do you know how many white employees she has
6 hired?

7 A About six that I can remember while I was
8 there.

9 Q Do you know how many that she has hired?

10 A I just told you that approximately six or
11 seven that I know of.

12 Q That you know of. My question is: Do you
13 know how many she has hired?

14 A No, I don't know that she personally hired
15 them. I just assume that since she is the department
16 head.

17 Q Do you dispute that she has hired fourteen?

18 A No. I don't know.

19 Q You don't know and you didn't know that she
20 has hired fourteen white employees?

21 A No.

22 Q Has she hired fourteen black employees?

23 A No.

24 Q Who hired you?

25 A Judge Gordon.

1 Q Now, do you remember Theron Fondren? Do you
2 remember that name?

3 A Yes.

4 Q How do you remember that name?

5 A I believe that was the one that was associated
6 with the 2004 incident, I believe.

7 Q Which incident was that?

8 A I think 2004.

9 Q About what?

10 A I believe he is the one that came in and asked
11 about -- he asked for me, and then he asked about how he
12 would go get his bond.

13 Q That is the one that wound up, you say,
14 wrongly, but it resulted in a ten-day suspension for
15 you?

16 A I did not tell him that he was wrongly
17 arrested.

18 Q I am talking about, you are saying you were
19 wrongly suspended, you were wrongly disciplined?

20 A Right.

21 Q And that is the case you were talking about;
22 is that right?

23 A That is the one I got suspended for, yes.

24 Q Right. And you got suspended for ten days on
25 that?

1 A Yes.

2 Q Major offense?

3 A Yes.

4 Q And you talked about what you say happened?

5 A Yes.

6 Q Now, you understand, of course, that there
7 were other witnesses in that case, including
8 Mr. Fondren, who wrote a letter?

9 A I don't know.

10 Q You don't know or you did not know that
11 Mr. Fondren wrote a letter saying what you told him?

12 MR. JAFFREE: Let me object to this.

13 Again, I believe it is --

14 MR. WHITE: I listened to all of your --

15 MR. JAFFREE: Show her these documents so that
16 she could testify on them. You refused
17 to give them to me, and now you are
18 asking her about some documents that you
19 may have access to.

20 MR. WHITE: It's about her testimony. I am
21 not asking her about documents. I am
22 asking about her testimony.

23 MR. JAFFREE: You are asking her about
24 documents, about a letter that somebody
25 wrote. I am objecting again for the same

1 reason.

2 MR. WHITE: Are you instructing her not to
3 answer?

4 MR. JAFFREE: I am objecting for the record.

5 MR. CHAIRMAN: Duly noted in the record. It
6 is being recorded.

7 Q Are you aware --

8 A I don't recall the testimony that that
9 happened.

10 Q So you don't dispute the fact that your
11 version of the facts don't match the complaint made by
12 Mr. Fondren?

13 A I don't dispute it.

14 Q Now, you say it was wrong, you didn't do
15 anything wrong. You didn't tell him he was falsely
16 arrested. Did you tell him that Ann had issued a
17 warrant wrongly?

18 A I don't recall that, no.

19 Q You don't dispute that?

20 A I don't recall that I said that.

21 Q Are you aware that you told him that Ann had
22 issued a warrant wrongly, and it turned out it was Mary
23 Turner you were talking about that you said it was
24 wrong?

25 A No.

1 Q You don't dispute that either?

2 A No.

3 Q And despite the fact of all this terrible
4 treatment you received, did you appeal the decision?

5 A No, I did not.

6 Q Did you make a statement to Gary Coleman
7 during that investigation?

8 A I believe it was he and Ray Owens that did the
9 investigation.

10 Q Did you make a statement to Mr. Coleman?

11 A Yes.

12 Q Did you tell him you had had no problem with
13 Judge Gordon?

14 A I don't recall that.

15 MR. JAFFREE: Wait a second. It appears that
16 counsel for the City has documents that
17 he is relying on that I asked for and
18 didn't get copies of and he is
19 cross-examining this witness on these
20 documents. That is an internal
21 unfairness. He has records and he is
22 looking at notes and investigative
23 reports. I asked for the same thing.

24 MR. WHITE: It was handed to me by Judge
25 Gordon. Let the record reflect, the note

1 he is referring to was a handwritten
2 note, and I will put it in evidence.

3 MR. JAFFREE: I don't care who handed it to
4 you.

5 MR. WHITE: I didn't have it.

6 MR. JAFFREE: Judge Gordon had it.

7 MR. WHITE: She just wrote it.

8 MR. JAFFREE: She had access to this record,
9 this document that exists.

10 MR. WHITE: And you don't.

11 MR. JAFFREE: That's right, I don't.

12 MR. WHITE: That's right.

13 MR. JAFFREE: That's wrong.

14 MR. WHITE: It is correct.

15 MR. CHAIRMAN: Hold up. I am listening to
16 your objection, Mr. Jaffree.

17 MR. JAFFREE: See, I haven't had the chance to
18 review these documents. She is being
19 cross-examined on documents she hasn't
20 seen. They know these records; I asked
21 for them so that I could go over them
22 with her. She has never seen these
23 records.

24 MR. WHITE: And they were refused.

25 MR. JAFFREE: That's right. They were

1 refused.

2 MR. WHITE: You have no right to them.

3 MR. JAFFREE: Never seen these documents, and
4 now she is being cross-examined on stuff
5 she has never seen before.

6 MR. WHITE: You didn't subpoena them.

7 MR. JAFFREE: I sent you a letter.

8 MR. WHITE: You didn't subpoena anything.

9 MR. JAFFREE: I can't subpoena what I don't
10 know exists.

11 MR. WHITE: You don't know how to subpoena,
12 okay.

13 MR. JAFFREE: Fine. I am sure you would honor
14 the subpoena.

15 MR. WHITE: I am going to follow the rules. I
16 know the rules. It's not my fault that
17 you don't.

18 MR. CHAIRMAN: Your objection is in the
19 record. Let's move on, gentlemen.

20 Q Do you dispute that you told Gary Coleman in
21 April of 2004 that you had no problem with Judge Gordon?

22 A I believe it was -- in April of 2004, I don't
23 know.

24 Q During the investigation of the Theron Fondren
25 matter where you were disciplined?

1 A I don't know. I don't recall what all was
2 said in that interrogation.

3 Q Did you ever make a complaint about any
4 treatment that you received from Judge Gordon?

5 A Complaint to whom?

6 Q Any complaint?

7 A No.

8 Q Do you know how many magistrates have keys to
9 the judge's office?

10 A No.

11 Q Do you know that there is one?

12 A I don't know.

13 Q Do you know who that is?

14 A No.

15 Q Do you know that it is Sarah Fowler?

16 A No, I don't.

17 Q Do you know that Sarah Fowler is white?

18 A Yes, I do.

19 Q How many of those people that you talked about
20 Judge Gordon firing have had drug raids at their house?

21 A I believe Allison Davis was the one that
22 people had said something about drugs.

23 Q You didn't mention that when you were asked a
24 while ago about these racial reasons for firing white
25 employees, did you?

1 MR. JAFFREE: Let me object. She wasn't asked
2 that.

3 A I wasn't asked.

4 Q You didn't volunteer it either, did you?

5 A No.

6 Q All you talked about was all the white people?

7 A That is what I was asked.

8 Q Right. And you don't know why -- you knew
9 there was a drug raid on -- who was it?

10 MR. JAFFREE: Object. She didn't know. She
11 said she just heard.

12 A Allison.

13 Q You heard?

14 A Yes.

15 Q Do you have any reason to dispute that that
16 was why she got fired?

17 A No.

18 Q Do you know of any employee that was fired
19 wrongfully?

20 A Not to my knowledge.

21 MR. WHITE: That's all.

22 EXAMINATION

23 FURTHER BY MR. JAFFREE:

24 Q Excuse me, were you fired wrongfully?

25 A Yes. I am sorry.

1 Q Do you think Nancy Martin was fired
2 wrongfully?

3 A Yes, I do.

4 Q Do you know the details surrounding all of
5 those people who got terminated?

6 A Not all of them, no.

7 Q Are you familiar that, until recently, white
8 people didn't think they were subject to discrimination?
9 Were you aware of that? You know, most white people
10 don't think, I am being discriminated against by black
11 people? It is sort of a new venture that came about
12 basically with --

13 MR. WHITE: I am going to object.

14 MR. JAFFREE: I am trying to find out what she
15 knows.

16 MR. WHITE: No, you are not.

17 MR. JAFFREE: I am trying to find out what she
18 knows.

19 MR. WHITE: I want you to do that.

20 MR. CHAIRMAN: One moment. Mr. Jaffree, if
21 you want to ask her what she knows, you
22 may ask her that, but don't put words in
23 her mouth.

24 Q Do you know that basically that blacks have
25 been admitted into schools over better qualified whites?

1 The concept of somehow reverse discrimination didn't
2 exist; did you know that?

3 A No.

4 Q If, in fact, there is preference shown to
5 black employees on a whole host of levels and this
6 preference is not shown to white employees, do you know
7 that that is discrimination?

8 A No.

9 Q When you are asked if you think you have been
10 discriminated against, has preference been shown to you?

11 A No.

12 Q Has preference been shown to black employees,
13 as far as you know?

14 A Yes.

15 Q Do you realize that is discrimination?

16 A I do now.

17 Q So whether you realize you can be
18 discriminated against is beside the fact --

19 MR. WHITE: You have got somebody out here
20 recording the proceedings.

21 MR. CHAIRMAN: You cannot record, gentlemen.

22 MR. STOKES: I am not recording. I am
23 dialing --

24 MR. WHITE: He is sticking a camera phone in
25 the door. I am going to ask that a

1 uniformed police officer instruct him to
2 stay out of here with his camera.

3 MR. STOKES: I am not taking pictures, boy.

4 MR. WHITE: You are not anymore.

5 MR. CHAIRMAN: Lenn. Lenn. Let's go on,
6 gentlemen. If we have to close the
7 hearing, I will close it.

8 MR. WHITE: Please, sir. He is standing there
9 with a video phone taking pictures right
10 there.

11 MR. STOKES: I am hitting redial to use a --

12 MR. CHAIRMAN: Let's close the door.

13 MR. WHITE: We are stopping you, buddy.

14 (Thereupon, Mr. White closes the door.)

15 MR. CHAIRMAN: Lenn. Lenn.

16 MR. JAFFREE: Let me, for the record, object
17 to closing the doors to the press.

18 MR. CHAIRMAN: I am not closing the doors to
19 the press.

20 MR. WHITE: The press is here.

21 MR. CHAIRMAN: They can come in, but I am not
22 going to have anyone standing --

23 MR. JAFFREE: I understood this was a public
24 hearing, open to the public.

25 MR. CHAIRMAN: It is open. Go ahead, Mr.

1 but you shouldn't tell her how she feels.

2 Q There is a provision in the law that deals
3 with arbitrary treatment. Do you feel you have been
4 treated arbitrary?

5 A Yes.

6 Q Unfairly?

7 A Yes.

8 Q And in a petty manner?

9 A Yes.

10 MR. JAFFREE: No further questions.

11 MR. WHITE: No questions.